IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3344 OF 2006

Bhurmal Rataji Ramina .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.S.P.Thorat for applicant

Mrs.M.H.Mhatre, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 12th September 2006

P.C.

. Applicant is apprehending arrest in C.R.No.91 of 2006 which is registered at Kolsewadi Police Station at Kalyan alleging

offences punishable under section 295-A of the I.P.C.

2. Submission of Mr.Thorat in support is that the applicant is in jewellery business. He has also a cloth shop at Kalyan. He has been carrying on this business for the past two decades. There are no criminal antecedents and the past record of the applicant is clean.

3. The complainant is resident of Kalyan. He is also in identical business and has business rivalry. He has lodged a false complaint against the applicant that he has distributed pamphlets, the contents of which are insulting or attempting to insult Jain community. He submits that if the statement of the complainant is read as a whole, there is no question of the said pamphlet being insulting or attempting to insult the religion or religious belief of Jain community, leave aside, attributing any deliberate or malicious

intentions of outraging such feelings. No offence, therefore, is committed by the applicant and the entire complaint is malafide and false. He submits that the learned Sessions Judge has without perusing the complaint and the pamphlets relied upon the statement of witnesses who have allegedly seen the applicant distributing the pamphlets.

4. Learned A.P.P. submits that the application deserves to be dismissed because the pamphlets contain statements which are outraging the feelings of Jain community. In such circumstances, no relief can be granted, much less, preventing arrest of the applicant when the investigations are on.

5. Section 295A of the I.P.C. reads thus:-

> "295-A: Deliberate and malicious acts intended to outrage religious feelings of

> any class by insulting its religion or religious beliefs:- Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

6. A bare perusal of the same would indicate that the deliberate and malicious intention of outraging religious feelings of any class of citizens of India by words, either spoken or written or by signs or by visible representations or otherwise so also insulting or attempting to insult religion or religious beliefs of that

class is a punishable offence. Insofar as pamphlet is concerned, it does not appear to me from a reading thereof that it is being published and distributed with deliberate and malicious intention of outraging religious feelings of any class and more particularly Jain community. Prima facie, it seeks to inform the concerned community of some misdeeds of persons belonging to Jain community and other religions. Thus, the ingredients insofar as first part are not satisfied. As far as insulting or attempting to insult the religion or religious beliefs, that also is not clear, inasmuch as the pamphlet will have to be read as a whole. If it is so read, it does not appear to be insulting or attempting to insult Jain religion or religious beliefs of Jain community. Prima facie, there is substance in the contention of Mr.Thorat that the complaint is lodged out of business rivalry. There is also substance in his submission that the attempt is to malign the applicant some how or the other.

7. In such circumstances, the application deserves to be granted. Accordingly, following order:-

i) In the event of the arrest of the applicant in connection with C.R.No.II 91/2006 registered with Kolsewadi Police Station, Kalyan the applicant shall be enlarged on bail in the sum of Rs.10,000/- with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will attend the Kolsewadi police station, Kalyan as and when summoned.

iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any

inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/ investigating agency. The applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)